Thomson & Thomson Inc.
120 Fulton Street
Boston, Massachusetts 02109
Telephone (617) 367-3110

A 879

Our File Number 42490

Your Number NAAM-5-1099

TRADEMARK SEARCH REPORT

Searched for Christensen, O'Connor, et al

Inquiry Dated 6/24/81 Received Phone Answered 6/26/81 TMB/K

Mark Searched "DONKEY KONG"

For Games, particularly video games

Scope of Search Full Search

Comments:—

PENDING APPLICATIONS
Filed Through
APR 17 1981
Have Been Examined In
Preparing This Report

References Cited:—

RECEIVED
JUN 29 1981
[illegible] O'Connor

$150.00

PLEASE NOTE: On those registrations which require an affidavit of use, and such affidavit has not been filed, the notation "Cancelled Sec 8" appears; conversely, the absence of [illegible] is indicative of the fact that the Sec. 8 affidavit has been filed.

MAY 24 1977

Cl. 107

SN 107,573. Diamond K Donkey Ball Co., Inc., Wapakoneta, Ohio. Filed Nov. 24, 1976.

DIAMOND K DONKEY BALL CO.

Applicant expressly disclaims the exclusive right to use of the words "Donkey Ball Co." aside and apart from the mark as shown, reserving, however, unto itself any and all common law rights that it may possess.

For Entertainment Services in the Nature of Organizing and Putting on Donkey Basketball and Donkey Baseball Games (U.S. Cl. 107).

First use July 1968.

INT. CL 41

Reg. 1,071,635

8/16/77

A 880

SEP 23 1980

Cl. 22

SN 212,142. Tuftoys, Inc., Denver, Colo. Filed Apr. 19, 1979.

KONG

For Dog Toys (U.S. Cl. 22).
First use May 1, 1975; in commerce May 1, 1975.

INT. CL 28

Reg. 1,145,509

1/6/81

Cl. 22

AUG 9 1977

SN 70,718. Mego Corp., New York, N.Y. Filed Dec. 3, 1975.

KING KONG

For Toy Animal Figures and Playsets (U.S. Cl. 22).
First use May 1, 1975.

INT. CL 28

Reg. 1,076,514

11/1/77

Cl 22

4/21/81

SN 150,267. Tuftoys, Inc., Denver, Colo. Filed Feb. 27, 1978.

For Toys for Pet Animals Such as Dogs (U.S. Cl. 22). First use Jul. 31, 1977, in commerce Jul. 31, 1977.

INT Cl 28

A 851

CL 22 APR 29 1941

Ser. No. 441,601. MILTON BRADLEY COMPANY, Springfield, Mass. Filed Mar. 17, 1941.

KONGO

FOR TABLE GAME.

Claims use since Oct. 28, 1940. 1107

388,794

7/8/41

Renewed 7/8/61. to Same

SN 235498

FILED 10/17/79

CHENG KONG & DESIGN

CL. 022 SPORTING ARTICLES NAMELY SKATING SHOES SKATE BOARDS & BALLS FOR SPORTING (IC28)*

APPLICANT:

KINGI ENTERPRISES CC LTD
TAIWAN REP CHINA

USE: 09/00/78

SN 073272

FILED 01/02/76

KING KONG

CL. 022 APPARATUS SOLD AS A UNIT FOR PLAYING A PARLOR GAME (IC28)*

ABANDONED
JUN 30 1976

APPLICANT:

IDEAL TOY CORP HOLLIS NY

USE: 11/10/75

STATE TRADEMARK REPORT

OUR REPORT IS BASED UPON TRADEMARK REGISTRATION INFORMATION MAINTAINED BY THE SECRETARIES OF STATE OF ALL 50 STATES. CORPORATE NAME RECORDS IN EACH STATE ARE NOT INCLUDED. EVERY ATTEMPT HAS BEEN MADE TO ASSURE ITS COMPLETENESS AND ACCURACY ALTHOUGH TOTAL ABSENCE OF ERROR OR OMISSIONS CANNOT BE GUARANTEED.

FILE NO. 0424901 DATE 06/25/81 PAGE NO. 01

*** THE AMAZING KONG
FOR: CLASS 22-GAMES TOYS, AND SPORTING GOODS *
OWNER: TUFFTOYS, INC DENVER COLO
STATE COLORADO US CL 022 DATE 04/08/77

*** CONGO
FOR: TOY ANIMAL GORILLA FIGURINE*
OWNER: IMPERIAL TOY CORP LOS ANGELES CALIF
STATE CALIFORNIA US CL 022 DATE 12/14/73

*** EL BURRO (THE DONKEY)
FOR: NEWSPAPERS NEWSLETTERS BOOKLETS BOOKS*
OWNER: ELADIO ARMESTO-GARCIA MIAMI FLA
STATE FLORIDA US CL 038 DATE 07/19/76

*** KONG
FOR: ELECTRIC IGNITION DEVICES FOR INTERNAL COMBUSTION ENGINES ETC*
OWNER: CHARLES D JACKSON BURBANK CALIF
STATE CALIFORNIA US CL 021 DATE 08/30/77

A 883

DIRECTORY SEARCH

MARK OR NAME: DONKEY KONG

SEARCH NO. 42490

	SOURCE
DONKEY (Video Film) ..Media Guild, ...Solana... Beach, ... CA	I-16

Listings taken from trade directories usually include the trademark, goods, the name and location of the user and the source (i.e., A-1 which is our code symbol for Thomas Register, etc.; listings from company name directories and phone books include the name and location, nature of business when stated and source (Boston phone, etc.). Complete information as to source will be furnished on request.

COMPUTERIZED DIRECTORY AND MARKET RESEARCH REPORT

THIS REPORT IS BASED UPON INFORMATION PUBLISHED IN TRADE DIRECTORIES OR FURNISHED BY INDUSTRY SOURCES. EVERY ATTEMPT HAS BEEN MADE TO ASSURE ITS COMPLETENESS AND ACCURACY ALTHOUGH TOTAL ABSENCE OF OMISSIONS OR INACCURACIES CANNOT BE GUARANTEED. CERTAIN EXCERPTS FROM OUR LEASED COMPUTERIZED DATA BASES ARE SUBJECT TO COPYRIGHT PROTECTION. PROPER USE OF SUCH MATERIAL IS THE RESPONSIBILITY OF THE SEARCH CORRESPONDENT.

FILE NO. 042490 1 DATE 06/25/81 PAGE NO. 01

*** DONKEY PARTY GAME
FOR: PLAYTHINGS*
OWNER: WARREN PAPER PRODUCTS
SOURCE: 1980 PLAYTHINGS DIRECTORY

*** DONKEY STICKS
FOR: PLAYTHINGS*
OWNER: SMETHPORT SPECIALTY CO
SOURCE: 1980 PLAYTHINGS DIRECTORY

00[illegible]-0853	DONIS PACKAGE STORE						
05-165-2212	DONIS VARIETY STORE						
08-[illegible]-1328	DONISE ENTERPRISES INC	ENGINEERED INDUSTRIAL SERVICES	ANADARKO	OK	20[illegible] N W 2ND ST		
[illegible]	DONISE ENTERPRISES INC	UNITED MECHANICAL CONTRACTORS	CHICAGO	IL	1256 1/2 W 103RD ST		
09-955-0771	DONISE ENTERPRISES INC		RINGWAY		20 NORTH BROAD ST		M
08-032-4940	DONISE ENTERPRISES INC	ENGINEERING INDUSTRIAL SERVICE	MAIL ADDRESS PO BX		132		
[illegible]	DONISI ANTHONY V DIV		ST MARYS		625 MAURUS ST		B
09-183-1859	DONISIS FLOWERS	KIDDE CONSUMER DURABLES CORP	ST MARYS	PA	625 MAURUS ST		B
02-818-2527	DONITHORPE INDUS MED CLINIC		MAIL ADDRESS PO BOX		8598		
01-014-4569	DONITHAN B F TRANSPORTN		LOVELAND	OH	307 LO ELANO-MADEIRA RD		BCR
04-183-5331	DONITHAN WILLIAM K		MIAMISBURG	OH	67 N MAIN ST		
02-122-1366	DONITHAN WILLIAM K	CARPET CORRAL	LOS ANGELES	CA	4007 E 7TH ST		
02-629-8602	DONITHAN WILLIAM K	CARPET CORRAL	KNIGHTSEN	CA			
08-041-3079	DONITO OF ITALY INC		MAIL ADDRESS PO BOX		38		
08-020-1665	DONIVAN & LINDAS HAIRSTYLISTS		BARSTOW	CA	2350 W MAIN ST		B
04-379-6726	DONIVAN ALTON JR		HESPERIA	CA	16901 MAIN		M
[illegible]	DONJAC INC	CRIPPEN RENTAL	MIAMI	FL	6924 NW 72 AVE		
07-061-8062	DONJAN INC		BLOOMINGTON	IN	4001 E 3RD ST		
09-514-2139	DONJE PRINTING		PLATTSBURGH	NY	SPELLMAN RD		
03-650-9212	DONJEAN CARPET & UPHL CLRS	DONJEAN SERVICES INC	MAIL ADDRESS PO BOX		22		
03-827-6689	DONJEAN RG UPTY CL		EL MONTE	CA	3145 N SANTA ANITA		
04-483-9689	DONJEAN SERVICES INC	DONJEAN CARPET & UPHL CLRS	LAS VEGAS	NV	4261 W CHARLESTON		M
03-827-6689	DONJER INC		LOMBARD	IL	2230 S MAIN		
07-[illegible]-8864	DONJER PRODUCTS CO		ROSEVILLE	CA	332 LINCOLN ST		CR
06-803-0980	DONJO COMPANY		MERCED	CA	1595 W 16TH		
09-[illegible]-4453	DONJO INC	COAST TO COAST	ROSEVILLE	CA	332 LINCOLN ST		
03-837-7367	DONJOHN INC	GART PLASTIC COVER CO	DULUTH	MN	3111 CHURCH ST		
01-665-6705	DONJON CO	LINDEN ELEVATOR	WEST BABYLON	NY	55 ALDER ST		
07-809-6166	DONJON INC	NORTHFIELD THRIFTWAY	SPOKANE	WA	E 1615 MOLTORKE		
03-002-5608	DONJON MARINE CO INC		AURORA	MN	113 NORTH		
03-117-6457	DONJOS DRESS SHOP		GARY	IN	3889 BROADWAY		
03-493-1688	DONJOY COMPANY THE		LINDEN	IA	SHORT ST		
09-259-6337	DONJOY GIFTS		MAIL ADDRESS PO BOX		8		
03-338-4382	DONK WILLIAM L	TWIN WILLOW ELECTRIC & CONSTR	NORTHFIELD	NJ	FILTON ROAD & CRESSON AVE		
03-159-0719	DONKA INC	FRANKS TAVERN	MILLSIDE	NJ	1250 LIBERTY AVE		M
09-327-5700	DONKAY PLAYTHINGS		DENVER	CO	2370 SO COLORADO BLVD		
03-051-6158	DONKEE LIFT RENTALS	KEE-BOM ENTERPRISES INC	OCEANSIDE	CA	2123 EL CAMINO REAL		
03-118-0557	DONKEE LIFT RENTALS	KEE-BOM ENTERPRISES INC	WAUSAU	WI	5705 NO TROY ST		
08-66 -8911	DONKER CARLA DAY CAF		CLIFTON SPGS	NY	89 #1 264 OUTLET RD		
09-132-9174	DONKER PRODUCTS INC		CORNWELLS HTS	PA	514-518 STATE RD		
08-510-2169	DONKER ROSS HOLBROOK		SOLBOTHA	AK	MAIN ST		
03-119-5026	DONKER STUDIO INC		MAIL ADDRESS PO BOX		3576		
09-322-5910	DONKERR CYRIL		LOS ANGELES	CA	6912 TELEGRAPH RD		BCR
07-66 -5899	DONKERS TRANSPORT		LOS ANGELES	CA	5845 S DISTRICT		CR
01-09[illegible]-7715	DONKERS WILLIAM	RED WING SHOE STORE	BELOIT	KS	109 W 5TH ST		
03-673-7508	DONKERS WILLIAM	RED WING SHOE STORE	CHICAGO	IL	544 W RANDOLPH		
03-673-7565	DONKERS WILLIAM	RED WING SHOE STORE	BELOIT	KS	726 S BROOKLYN		
			INDIANAPOLIS	IN	920 E WESTFIELD BLVD		
			FAIRBAULT	MN	ATE #2		
			MAIL ADDRESS PO BOX		140		
			MILPITAS	CA	340 BRYCE CT		
			BURBANK	CA	521 N SAN FERNANDO BLVD		B
			CANOGA PARK	CA	HOME GIVEN		B

03-673-7373	DONKERS WILLIAM	RED WING SHOE STORE	SAN FERNANDO	CA	1019 TRUMAN		B
03-673-7326	DONKERS WILLIAM	RED WING SHOE STORE	THOUSAND OAKS	CA	258 N MOOR ARK RD		B
03-673-7441	DONKERS WILLIAM	RED WING SHOE STORE	VAN NUYS	CA	6352 VAN NUYS BLVD		B
03-816-7410	DONKERS WILLIAM	RED WING SHOE STORE	RED WING	MN	PROFESSIONAL BUILDING		M
09-460-7116	DONKERSLOOT ARIE & HELENA	WATERSEDGE MOTEL	ST JAMES CITY	FL	7806 SO PINE ISLAND BLVD		
07-284-9420	DONKERSLOOT ED		SANBORN	IA	HWY #18		
01-118-0908	DONKERSLOOT JOHN & SON		CLIFTON	NJ	37 2ND ST		
02-095-5530	DONKEY INN		PALATINE	IL	923 S PLUM GROVE RD		
04-754-9733	DONKEY JAW INC		SANDPOINT	ID	212 CEDAR ST		
			MAIL ADDRESS PO BOX		1276		
05-610-4678	DONKEY TRASH SERVICE	WILLIAMSON RUSSELL H	WICHITA	KS	1938 S MOSLEY		CR
08-384-3340	DONKIN COMMERCIAL CLEANING		WARREN	MI	13611 HAMFORD CT		
03-372-6600	DONKIN DONUTS	TODD THOMAS G INC	LEMONT	IL	168 N BOLINGBROOK DR		BCR
08-626-0320	DONKIN HOMES		BOTHELL	WA	117 240TH SE		
			MAIL ADDRESS PO BOX		57		
09-466-7012	DONKIN ROB FLOORING		WOODLAND HLS	CA	23257 CALIFA		
02-[illegible]-3009	DONKINS INC	DONKINS WILSHIRE	SANTA MONICA	CA	2454 WILSHIRE BLVD		B
02-[illegible]-6483	DONKINS INC		VENICE	CA	14130 MARGUERITE WAY		M
01-074-7590	DONKINS PUB 205 INC	DONKINS INC	PORTLAND	OR	10050 SE WASHINGTON		
09-[illegible]-3009	DONKINS WILSHIRE		SANTA MONICA	CA	2454 WILSHIRE BLVD		BCR
02-610-4334	DONKIRK TOOL SUPPLY		COVINA	CA	144 W BADILLO ST		
03-[illegible]-1669	DONKLE I L CO		GREENVILLE	SC	12 SEVIER STREET		
			MAIL ADDRESS PO BOX		8735		
03-535-6707	DONKLE LUMBER CO INC		PLYMOUTH	WI	13 W MILWAUKEE AVE		
08-[illegible]-7647	DONKLES INSURANCE AGENCY INC		FORT ATKINSON	WI	13 W MILWAUKEE AVE		
03-[illegible]-1687	DONKO ELECTRIC CO		ST LOUIS	MO	303 S 6OAE		
05-[illegible]-6194	DONKO MICHAEL		POTTSTOWN	PA	616 CHERRY ST		
09-[illegible]-2459	DONKAMPE ENTERPRISES		BALLWIN	MO	720 WILD WALNUT		
09-[illegible]-8394	DONKS CORN CENTER INC		PHELPS	NY	PHELPS JCT RD BOX 216		
08-[illegible]-7055	DONKS EQUIPMENT INC		PHELPS	NY	PHELPS JUNCTION RD		
			MAIL ADDRESS PO BOX		176		
03-214-5525	DONKS FURNITURE		ROCKET 7060	CO	604 NO MAIN ST		
07-121-7956	DONKUS JOHN		BOILING SPGS	PA	37 ASHER DRIVE		
			MAIL ADDRESS BRANCH		1		
[illegible]-755-1028	DONL DRUG		PAWNEE	OK	539 6TH ST		
[illegible]-917	DONLAN JOHN		BOSTON	MA	31 MILK STREET		CR
01-81-2290	DONLAN ADVERTISING		BUENA PARK	CA	7121 WESTERN AVE		
[illegible]-1696	DONLAN CORPORATION	CROWN LEEDS AVE	BALTIMORE	MD	6305 LEEDS AVE		
01-[illegible]-0648	DONLAN ENTERPRISES INC	JONSONS MARKET INC	ALAMEDA	CA	1111 E CHANNEL ISLAND		BCR
01-703-[illegible]-585	DONLAN FARMS		FLINT	MI	3116 COLUMBIA RD		
09-935-7150	DONLAN FISH CORP		BOSTON	MA	148 L STREET		
[illegible]-1153	DONLAN FRANCIS E	PLAZA IV	LINCOLN	NE	618 ROCKWOOD DR		
09-[illegible]-6169	DONLAN INVESTMENT COMPANY	SHINGLE RIDGE	ALAMEDA	CA	506 W CENTRE ST		M
03-514-4917	DONLAN JAMES J	DONLAN ADVERTISING	BOSTON	MA	31 MILK STR ST		
07-[illegible]-0922	DONLAN JOHN		LINCOLN	NE	6133 HOLDREGE		
09-[illegible]-3062	DONLAN PAT AUTO INC		LIVERMORE	CA	2934 5TH ST SPACE B		
07-[illegible]-6133	DONLAN TOM DISTRIBUTORS		BROCKTON	MA	40 MONTROSE ST		
37-0510	DONLAN WILLIAM J		BALLSTON	TX	701 COMMERCE		
25-[illegible]-554	DONLAND DEVELOPMENT CO		DOYLESTOWN	PA	810 MACARTHY ST		
257-6127	DONLANS		PEORIA	IL	1921 W LINDEMAN RD		
252-6421	DONLANS FAUCETS		ANAHEIM	CA	500 NO HARBOR BLVD		
617-[illegible]-1019	DONLANS JACK & JILL		ST PAUL	MN	1704 W 13TH ST		
95-[illegible]-7717	DONLAR CORPORATION	LIFEGARD SHIRE & SEAL	PANAMA CITY	FL	1124-1130 CALIFORNIA AVE		
07-[illegible]-0771	DONLAR INC	ROOMS OF CARPET	CANOGA	CA	7165 CANOGA PK		
[illegible]-0[illegible]4	DONLARE CYCLES CORP	SPEED RACE RECORDS	BELMONT	MA	225 WINDING AVE		
07-[illegible]-3442	DONLAUREE ENTERPRISES		BILLINGS	MT	30336		
07-[illegible]-3503	DONLAVY HANDICAPPED PRODUCTS		MAIL ADDRESS PO BOX		5499		
07-[illegible]-1335	DONLAW INC		BATAVIA	NY	8499 LEBANON PIKE		
03-[illegible]-3423	DONLAY VARIETY		COLLEGE	MO	MAIN ST		
07-[illegible]-3125	DONLEE COMMUNICATIONS INC		MAIL ADDRESS PO BOX		916		
07-[illegible]-6121	DONLEA OIL CO		FOLSOM	PA	1925 LANCASTER RD		
07-[illegible]-6121	DONLEAVY & CO INC		SALEM	VA	325 HAMILTON		
			FAIRFAX	CA	144 E LINDEN		
			FRESNO	CA	19 COMMERCE ST		
			RED TOWER	MT			

A 896

July 10, 1981

Mr. Minoru Arakawa, President
Nintendo of America, Inc.
1107 Broadway, Suite #1420
New York, NY 10010

Re: Supplemental Report on Trademark Search for
SKY SKIPPER and DONKEY KONG
And Report on Recent Federal Court Case
Concerning Video Games
Our File: NOAM-5-1099

Dear Mr. Arakawa:

Further to our letter of July 1, 1981, we are enclosing for your information and records, the computerized print out of the Trademark searches for "Sky Skipper" and "Donkey Kong". As indicated in our preliminary report, both proposed trademarks appear to be available for the exclusive use and registration by Nintendo. Also we have enclosed a copy of a recent Federal District Court Case out of New York upholding the copyright in a video game display.

TRADEMARK SEARCH REPORTS

For "Sky Skipper" the search shows a number of two word marks formed by "Sky" and "Skipper", however, no prior registrations of the combination "Sky Skipper" were found. Of possible interest are the registration Nos. 1,151,117 and 1,139,819 to Atari, Inc. of Sunnyvale, California, for "Sky Raider" and "Skydiver", both being used on video games. While we would have preferred to see these two registrations owned by different companies, rather than by the same company, Atari, it is still our opinion that you are fee to adopt your trademark "Sky Skipper" and that it will be registerable over the Atari marks. We base this opinion on the fact that "Sky" is used as the first word in so many trademarks applied to games and toys (for example, see the registrations for "Sky Battle", "Sky High", "Sky Shooter", "Skysport", "Sky-Spy", etc.) that Nintendo's proposed use of "Sky Skipper" could not be confused with "Sky Raider" or "Skydiver" merely on the basis that these trademarks all begin with "Sky".

Similarly "Skipper" has been used many times both by itself and in combination with another word on such related goods as games and toys. It is therefore our opinion that your proposed use of "Skipper" in "Sky Skipper" will not be confused with another manufacturer's products.

A 887

The same conclusion of availability and registerability has been reached for the mark "Donkey Kong". Based on the trademark search results, no single company appears to have exclusive rights to either "Donkey" or "Kong" in the field of toys, games, and related goods. Moreover, the search results failed to show any combination of words similar to "Donkey Kong". As a matter of general interest, Milton Bradley has registered "Kongo" for a table game and Tufftoys, Inc. of Denver, Colorado has registered "Kong" and "The Amazing Kong" for toys for pets, and Mego Corp. has registered "King Kong" for toy animal figures and play sets. We do not see any conflict with these registrations in Nintendo's proposed use or "Donkey Kong" for video games.

RECENT FEDERAL DISTRICT COURT CASE IN NEW YORK

For your information we are also enclosing a copy of a recently decided Federal District Court Case out of the Eastern District of New York, Stern Electronics, Inc. v. Harold Kaufam d/b/a Bay Coin, Omni Video Games, Inc. and others.

Briefly, this case was decided on a request by the Plaintiff, Stern Electronics, Inc., for a preliminary injunction against the defendants who were manufacturing and/or distributing video games which infringed either or both of the plaintiff's trademark rights and copyrights. The case involves two separate occurrences of infringement.

(a) First, the defendants were injoined from infringing the plaintiff's copyrights on "Kamikaze" and "Astro Invaders" by selling video games that were identical to plaintiff's, but under an entirely different trademark name "Zygon". For this cause of action, the defendant's apparently consented to a preliminary injunction by the court allowing the infringing video games to be impounded during the court's full consideration of the case through trial.

(b) In a second portion of the same case, the same or related defendants were charged with infringing both the trademark and copyright on plaintiff's game "Scramble". The game was created by a Japanese corporation, Konami Industry Co., Ltd. who licensed the exclusive rights (through in intervening company) to the plaintiff Stern. The court found that the plaintiff Stern was likely to prevail, at trial, on both the trademark infringement charge and the copyright infringement charge. For the trademark cause, it was found that the plaintiff Stern had the exclusive rights to the name, for video games in the United States, and that the defendants technically prior use of the name "Scramble" was not in good faith and could not be set up as a defense to the plaintiff's claim of trademark infringement.

A 888

Secondly, the court found that the plaintiff had valid copyright protection for the "audiovisual" game display effects, regardless of how the display was generated (in this case by means of a program stored in a microcomputer circuit within the game unit). Furthermore, the court found that the defendant probably infringed the plaintiff's copyright because of the "substantial similarity" between the audiovisual effects of the defendant's game and the plaintiff's copyrighted game. The court specifically found that the games were not identical, but that there was enough similarity between the "audiovisual effects" to justify a finding of copyright infringement. The court stated:

> These differences in the attract mode clearly indicate that the games are not identical, but the two games are substantially similar. *** Even if the attract mode were totally different in the two games, the copying of the play mode would still constitute a copyright infringement.

This is an extremely important, leading case on the scope of copyright protection for the video game business. We will follow the progress of the case to its conclusion. It is noted that the judge's decision thus far is based on a preliminary injunction in which the court only decides whether the plaintiff is likely to win at trial. It is always possible that there can be some changes in the court's judgement after the full trial of the case. In any event, the case is a favorable precedent for any litigation brought in a trial court for an injunction against pirated or "knock-up" video games.

Please note that we are waiting for the information requested in our letter of July 1, 1981.

Sincerely,

CHRISTENSEN, O'CONNOR,
JOHNSON & KINDNESS

By
Larry A. Jackson

LAJ/slb
Enclosures
cc: Ron Judy w/enclosures

A 859

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Nintendo of America, Inc.

Mark: DONKEY KONG & DESIGN

Attorney Docket No.: NOAM-2-0819

Seattle, Washington 98121

October 1, 1981

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

We enclose herewith the papers in an application for registration of the mark DONKEY KONG & DESIGN in the name of Nintendo of America, Inc.

said papers comprising:

1. Written application;
2. Drawing;
3. Five specimens of the mark as actually used;
4. Our check No. 3644 in the amount of $35.00 covering the filing fee.

Please charge any additional fees or credit any overpayment to Deposit Acct. No. 03-1740.

Respectfully submitted,

CHRISTENSEN, O'CONNOR, JOHNSON & KINDNESS

By Larry A. Jackson
Registration No. 24,313

Applicant: Nintendo of America, Inc.
Mark: DONKEY KONG & DESIGN

Attorney Docket No.: NOAM-2-0819

Enclosed: Transmittal ltr. in duplicate, Written application, Drawing, 5 specimens, Check No. 3644, receipt

Received in the U.S. Patent and Trademark Office on:

RECEIVED
OCT 9 1981
Christensen, O'Connor, Johnson & Kindness

MAIL ROOM OCT 1 1981

330932

LAW OFFICES
CHRISTENSEN, O'CONNOR
JOHNSON & KINDNESS
2000 FOURTH AND BLANCHARD
BUILDING
2121 FOURTH AVENUE
SEATTLE, WA 98121
(206) 623-0100

LAJ/ps 10-1-81

A 890

TRADEMARK APPLICATION

PRINCIPAL REGISTER

Mark: DONKEY KONG & DESIGN

International Class: 28

Attorney Docket No.: NOAM-2-0819

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Nintendo of America, Inc., a New York corporation

1107 Broadway, Suite 1420, New York, NY 10010
and
18340 Southcenter Parkway, Seattle, WA 98188

The above-identified applicant has adopted and is using the mark shown in the accompanying drawing for electronic games, and in particular game apparatus using a video display, and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The mark was first used on the goods in foreign commerce with the United States at least as early as July 6, 1981; was first used in interstate commerce at least as early as August 11, 1981; and is now in use in such commerce.

The mark is used by applying it to the goods and in advertising and promotional materials used in conjunction with the sale and distribution of the goods. Five (5) specimens showing the mark as actually used are submitted herewith.

The applicant hereby appoints Orland M. Christensen, Reg. No. 15,506; Bruce E. O'Connor, Reg. No. 24,849; Lee E. Johnson, Reg. No. 22,946; Gary S. Kindness, Reg.No. 22,178; Larry A. Jackson, Reg. No. 24,313; James W. Anable, Reg. No. 26,827; members of the firm of Christensen, O'Connor, Johnson & Kindness, 2000 Fourth & Blanchard Building, 2121 Fourth Avenue, Seattle, Washington 98121, as its attorneys with full power of substitution and revocation to prosecute this application for registration, to transact all business in the Patent and Trademark Office in connection therewith and to receive the certificate of registration.

Minoru Arakawa states that he is the President of Nintendo of America, Inc., and is authorized to execute this declaration on behalf of said corporation, that he believes said corporation to be the owner of the mark sought to be registered; that

to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, firm, corporation or association to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Nintendo of America, Inc.

Date Sept. 16, 1981

By Minoru Arakawa

Minoru Arakawa, President

A 892

Applicant:	Nintendo of America, Inc.
Address:	1107 Broadway, Suite 1420 New York, NY 10010 and 18340 Southcenter Parkway Seattle, WA 98188
Date of First Use:	At least as early as July 6, 1981
Date of First Use in Interstate Commerce:	At least as early as August 11, 1981
Goods:	Electronic games, and in particular game apparatus using a video display

DONKEY KONG

A 893

NOAM 2-0819

cpy to MacLire
Sept 3

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

IN REPLY TO THE FOLLOWING AND THE FILING DATE:

1. SER. NO.	2. MARK	5. PAPER NO.
330932	DONKEY KONG, PLUS DESIGN	

3. APPLICANT	ADDRESS COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON D. C. 20231 AND FURNISH YOUR ZIP CODE AND TELEPHONE NUMBER IN ALL CORRESPONDENCE	6. MAILING DATE
NINTENDO OF AMERICA, INC.		APR 26 1982

4. ADDRESS

LARRY A. JACKSON
CHRISTENSEN, O'CONNOR, JOHNSON & KINDNESS
2000 4TH & BLANCHARD BLDG., 2121 4TH AVE.
SEATTLE, WASHINGTON 98121

FORM PTO 36-33 (REV. 12-76) (FORMERLY PTO-1293) U.S. DEPT. OF COMM. Pat & TM Office

The address of all correspondence not containing fee payments should include the words, "Box 5". The response should indicate the mailing date of this action and the Attorney/Examiner's division number.

After review of the above identified application for trademark and/or service mark registration, applicant is advised as follows:

The present identification of goods is indefinite for purposes of registration. The following identification is suggested and should be adopted, if accurate: Electronic coin operated video game using a video display.

Although applicant has included the date of first use of the mark in commerce, the date of first use of the mark anywhere has been omitted from the application. Amendment, supported by an affidavit or by a declaration in accordance with Trademark Rule 2.20, must be submitted. Trademark Rules 2.33(a)(1)(vii) and 2.33(a)(1)(viii); Trademark Rule 2.71(a); and TMEP Section 806.01.

A search of the Office records fails to show that the mark, when applied to applicant's goods and/or services, so resembles any registered mark as to be likely to cause confusion, or to cause mistake, or to deceive. TMEP Section 1105.01.

BAS:ds

Barry A. Solomon
Trademark Attorney
Law Office III, (703) 557-9560

RECEIVED
MAY 5 1982

A proper response to THIS OFFICE action must be received within 6 months from the date of this action in order to avoid ABANDONMENT.

FTO-36 (REV. 10/80)

2- Applicant's Copy